

C20. 00392

MC-1000

Petition for Review of Denial of Request to Remove Name From Gang Database

Instructions: Please read the instructions on page 2 of this form before completing and filing this form.

Notice to the Clerk: This petition is filed under Penal Code section 186.35 and California Rules of Court, rule 3.2300. Rule 3.2300(c) requires the presiding judge of each superior court to designate one or more judges to hear such petitions. This petition must be submitted to one of those judges.

Clerk stamps date here when form is filed.

**CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles**

SEP 04 2019

**Sherri R. Carter, Executive Officer/Clerk
By: Glorietta Robinson, Deputy**

Fill in court name and street address:

**Superior Court of California, County of Los Angeles
Stanley Mosk Courthouse
111 North Hill Street
Los Angeles, CA 90012**

Court fills in case number when form is filed.

Case Number: 19STCP03797

1 Name of Person Filing This Petition:

Daniel Contreras

I am: ☒ The person whose name is in the gang database.
☐ The parent or guardian of the child under 18 whose name is in the gang database.

Your lawyer in this case (if you have one):

Name: Sean Garcia-Leys State Bar No.: 313558

Firm Name: The Connie Rice Institute for Urban Peace

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer, give your information.)

Address: 1910 W. Sunset Blvd., Suite 800

City: Los Angeles State: CA Zip: 90026

Telephone: (213) 404-0130 Fax: _____ E-mail: sgarcialeys@urbanpeaceinstitute.org

2 Decision You Are Requesting Be Reviewed

I am seeking review of the following law enforcement agency's denial of my request under Penal Code section 186.34 to remove my name or the name of my child or ward from a shared gang database. (Complete a. or b.)

Name of law enforcement agency: Los Angeles Police Department

Address: P.O. Box 30158

City: Los Angeles State: CA Zip: 90030

☐ a. The decision denying the request was served on me/my client by the law enforcement agency:
☐ By personal delivery ☐ By mail on (date:) _____

You must attach a copy of the written verification denying your request.

☒ b. The agency did not respond to my request, which I submitted in writing:
☐ By personal delivery ☒ By mail on (date:) Jul 8, 2019

You must attach a copy of your request and written documentation contesting your designation.

3 Reason for This Petition for Review

I am seeking review of the denial of my request on the basis that the law enforcement agency has not established by clear and convincing evidence the active gang membership, associate status, or affiliate status of the person whose name I requested be removed from the shared gang database.

4 Written Argument

☐ I have attached my written argument about why, based on the record specified in Penal Code section 186.35(b), the law enforcement agency has failed to establish by clear and convincing evidence the gang membership, associate status, or affiliate status of the person whose name I requested be removed from the street gang database.

NOTE: You do not have to submit written argument, but if you wish to, you can either include that argument in this petition or serve and file the argument separately within 15 days after the law enforcement agency serves and files the record in this proceeding. Please see rule 3.2300(f) for information about submitting written argument.

**RECEIVED
CITY CLERK'S OFFICE
2019 SEP -9 PM 2:37
CITY CLERK**

**REFERRED TO CITY ATTORNEY
FOR DISPOSITION**

SEP 10 2019



5 Request for or Waiver of Oral Argument

I understand oral argument can be requested in this case. I ☒ am ☐ am not requesting oral argument.

Date: Aug 16, 2019

Sean Garcia-Leys

Type or print your name


Signature

Instructions

This form is only for seeking review by a court of a local law enforcement agency's written or deemed denial of a request under Penal Code section 186.34 to remove an individual's name from a shared gang database.

You must serve and file this form **no later than 90 calendar days** after either (1) the law enforcement agency serves you with written verification of its decision denying your request under Penal Code section 186.34 to remove your name from a shared gang database or, if you are the parent or guardian of a child under 18 whose name is in the gang database, the child's name; or (2) the date your request was deemed denied under Penal Code section 186.34(e). **If your petition is late, your request will be dismissed.**

To serve and file this form, complete the following steps:

1. Fill out this form

In the second box on the right-hand side: Fill in the name of the county for the superior court where you plan to file the petition and the street address for the court (see rule 3.2300(d)(3) for information about where to file this form).

In Item 1: Fill in your name and check the box to indicate if you are the person whose name is in the gang database or that person's parent or guardian.

Fill in the name and firm name of your lawyer, if you have one.

Fill in your lawyer's contact information or, if you do not have a lawyer, your contact information.

In Item 2: Fill in the name and address of the law enforcement agency whose decision you are petitioning the court to review.

(a) If you received a written decision from the law enforcement agency denying your request to remove your name or the name of your child or ward from the gang database, attach a copy to the form.

(b) If you did not receive a decision, and your request was deemed denied, complete the date and way in which you submitted the request.

In Item 4: Check to indicate if you are attaching written argument to this request.

In Item 5: Indicate whether or not you want to have oral argument on your petition or whether you want to give up (waive) oral argument and have the court decide the case without oral argument.

At the end of the form: Print and sign your name and fill in the date you signed the form.

2. Make copies of the form

Make a copy of the completed form for your records and one for the law enforcement agency.

3. Serve the form

Serve a copy of the completed form and any required attachment on the law enforcement agency and keep proof of this service. You can get information about how to serve court papers and proof of service on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

4. File the form

Take or mail the original completed form with a copy of the law enforcement agency decision attached and proof of service on the law enforcement agency to the civil clerk's office of the court where you file this form. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

Pay the \$25 filing fee and file this form, or if you are unable to pay this fee, file a request to waive court fees (form FW-001) in the court.



July 8, 2019

Los Angeles Police Department
P.O. Box 30158
Los Angeles, CA 90030

RE: Daniel Contreras' request for removal from shared gang databases, pursuant to California Penal Code § 186.34 (e)

To Whom It May Concern,

I am writing on behalf of my client, Daniel Contreras to contest your agency's designation of Mr. Contreras as a suspected gang member, associate, or affiliate and to request that you remove Mr. Contreras' name and any information about Mr. Contreras collected by your agency from all shared law enforcement gang databases. This request includes removal from the CalGang database and also from any database maintained by your agency that documents gang allegations such as an Electronic Field Interview Database that is shared with any other agency, either directly or through "fusion centers" such as the Los Angeles Joint Regional Intelligence Center. Your agency has 30 days from the submission of this request to reply with written verification of your agency's decision. A refusal of this request may be appealed in Superior Court.

Mr. Contreras is Not a Gang Member, Associate, or Affiliate.

Mr. Contreras is not a gang member, associate, or affiliate.

The Los Angeles Police Department Has Not Provided Clear and Convincing Evidence of Mr. Contreras' Alleged Gang Membership, Association, or Affiliation.

In a letter dated January 30, 2019, your agency responded to an information request from Mr. Contreras stating that your agency has designated Mr. Contreras as a gang member, associate, or affiliate in a shared gang database. However, your agency did not provide any evidence with the response. Instead, your agency provided only a checklist of conclusory statements. Without any evidence, it is impossible for Mr. Contreras to do any more than simply deny that he is a gang member, associate, or affiliate, which he does.

Furthermore, because your agency provided only a one-page response without any evidence, if your agency denies this request and Mr. Contreras files a petition for review in the Superior Court, your agency will be prohibited from presenting any more evidence to the court. As a result, Penal Code section 186.35 effectively guarantees that a court will order your agency to remove Mr. Contreras' record upon Mr. Contreras' request.

Removing Non-Gang Members Like Mr. Contreras From Shared Gang Databases Will Improve Public Safety.

Mr. Contreras has retained the Urban Peace Institute to represent him in this matter pro bono. The Urban Peace Institute is a non-profit organization whose mission is to reduce community violence by promoting a public health approach to gangs. We have found that overbroad targeting of gang suppression by law enforcement decreases public safety because it creates barriers to social integration and erodes trust between communities and law enforcement. We have accepted Mr. Contreras as a pro-bono client because (1) he was referred to us by a trusted community partner who assures us he is not a gang member, (2) because we believe that his removal from gang databases will remove barriers to his continued integration in his community, and (3) because ending the targeting of gang suppression against non-gang members like Mr. Contreras will improve your community's trust in your agency. We hope that you will agree with us and that you will remove Mr. Contreras from all shared gang databases.

Sincerely,



Sean Garcia-Leys
Senior Staff Attorney

Attachments:

- 1 – January 30, 2019 Response to Request for Status in the Shared Gang Database Letter
- 2 – December 3, 2018 Inquiry Into Gang Database Designation per Cal PC § 186.34 (d)
- 3 – November 12, 2015 Gang Affiliation Parental Notification Letter

Attachment

1

LOS ANGELES POLICE DEPARTMENT

MICHEL R. MOORE
Chief of Police



P.O. Box 30158
Los Angeles, CA 90030
Telephone: 310-482-6402
TDD: (877) 275-5273
Ref #:
(ref. no. entity typing corresp.)

ERIC GARCETTI
Mayor

Response to Request for Status in the Shared Gang Database Letter

Dear Mr. Garcia-Leys,

Date: Jan. 30, 2019

On Jan. 28, 2019, the Los Angeles Police Department (LAPD) received a written request from you inquiring about the inclusion of Contreras, Daniel into the shared gang database.

After review it was determined that:

- ☐ The person for which inclusion is being requested is not in the database.
- ☒ The person for which inclusion is being requested is in the database.

Agency making the designation: _____

If the request asked for the basis of the designation and the designation was made by the LAPD, criteria may be documented below. **If the designation was not made by the LAPD, further information may be obtained by contacting the agency making the designation, as follows:**

Outside Agency Name: _____ Phone Number: _____

The following criteria were used to make this determination:

- ☒ Subject has admitted to being a gang member.
- ☐ Subject has been arrested for offenses consistent with gang activity.
- ☐ Subject has been identified as a gang member by a reliable informant/source.
- ☒ Subject has been seen associating with documented gang members.
- ☐ Subject has been seen displaying gang symbols and or hand signs.
- ☒ Subject has been seen frequenting gang areas.
- ☒ Subject has been seen wearing gang dress.
- ☐ Subject is known to have gang tattoos.

Should you have any questions regarding this correspondence or have inquiries regarding referral programs, please call Officer/Detective Melvin Campos, Serial No. 34963, Pacific Area G.I.T. Area, at phone number 310-482-6402.

Respectfully,

MICHEL R. MOORE
Chief of Police


James L. Setzer, Captain
Commanding Officer
Pacific Area

AN EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER
www.LAPDonline.org
www.joinLAPD.com

12.16.16 (08 18)

Attachment

2



December 3, 2018

Los Angeles Police Department
Attn: Pacific Area Gang Unit
12312 Culver Blvd.
Los Angeles CA 90066

RE: Inquiry into Gang Database Designation per Cal PC § 186.34 (d)

To Whom It May Concern,

In 2015, your agency notified my client, Daniel Contreras that he had been designated as a suspected gang member, associate, or affiliate in a shared law enforcement gang database. I have attached that notice to this letter. Because several years have passed, and because of the intervening CalGang moratorium and audit, I am writing to inquire if your agency continues to designate Mr. Contreras as a suspected gang member, associate, or affiliate in a shared law enforcement gang database.

In addition, if your agency does still designate Mr. Contreras as a suspected gang member, associate, or affiliate in a shared gang database, Mr. Contreras requests to know the basis of the designation and requests copies of the evidence that supports the designation.

If any other agencies have designated Mr. Contreras as a suspected gang member, associate, or affiliate in a shared gang database to which your agency has access, Mr. Contreras requests to know the names of those agencies.

The California Penal Code section regarding shared gang databases was amended, effective January 1st, 2018. California Penal Code § 186.34 now states:

(d) (1) (A) A person, or, if the person is under 18 years of age, his or her parent or guardian, or an attorney working on behalf of the person may request information of any law enforcement agency as to whether the person is designated as a suspected gang member, associate, or affiliate in a shared gang database accessible by that law enforcement agency and what law enforcement agency made the designation. A request pursuant to this paragraph shall be in writing.

- (B) If a person about whom information is requested pursuant to subparagraph (A) is designated as a suspected gang member, associate, or affiliate in a shared gang database by that law enforcement agency, the person making the request may also request information as to the basis for the designation for the purpose of contesting the designation as described in subdivision (e).*
- (2) The law enforcement agency shall provide information requested under paragraph (1), unless doing so would compromise an active criminal investigation or compromise the health or safety of the person if the person is under 18 years of age.*
- (3) The law enforcement agency shall respond to a valid request pursuant to paragraph (1) in writing to the person making the request within 30 calendar days of receipt of the request.*

Furthermore, please note that pursuant to California Penal Code § 186.35, Mr. Contreras is entitled at this time to any evidence that your agency will submit to the court should there be a civil appeal of a denial of a request for removal.

Please feel free to write me at SGarciaLeys@UrbanPeaceInstitute.org or call me at (213) 404-0130 if you have any questions or if there is any way I can help facilitate your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sean Garcia-Leys', followed by a long horizontal line extending to the right.

Sean Garcia-Leys, Esq.
Staff Attorney, Urban Peace Institute

Attachment

3

LOS ANGELES POLICE DEPARTMENT



CHARLIE BECK
Chief of Police

ERIC GARCETTI
Mayor

P. O. Box 30158
Los Angeles, Calif. 90030
Telephone: ()
TDD: (877) 275-5273
Ref #: _____

Gang Affiliation Parental Notification Letter

Dear Parent/Guardian:

Date: 11/12/2015

On 11/11/2015, your son Contreras, Daniel, was involved in a field contact by officers from the Los Angeles Police Department. As a result, information relative to Contreras, Daniel participation in or association with an active street gang was discovered. The contact met the minimum criteria required by state law to identify him as an active gang member or active affiliate gang member. Therefore, his name and gang affiliation will be entered into the Department's computerized shared gang database.

You have the right to contest in writing the entry into the database. If you choose to contest the entry, the Department will review your written documentation and provide a written response within 60 calendar days of its decision to either keep or remove Contreras, Daniel from the computerized shared gang database.

There are positive alternatives to the gang influence which plagues the youth of our City. I invite you to contact the below officer for information on referral programs in your area.

Should you have any questions regarding this correspondence, please call Detective Sean Kinchla Serial No. 35694, Pacific Area Gang Impact Team. Phone No. (310)482-6402.

Very truly yours,

CHARLIE BECK
Chief of Police


NICOLE L. ALBERCA, Captain
Commanding Officer
Pacific Community Police Station

12.16.05 (03/15)

LOS ANGELES POLICE DEPARTMENT

MICHEL R. MOORE
Chief of Police



P.O. Box 30158
Los Angeles, CA 90030
Telephone: 310-482-6402
TDD: (877) 275-5273
Ref #:
(ref. no. entity typing corresp.)

ERIC GARCETTI
Mayor

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Outside Agency Name: _____ Phone Number: _____

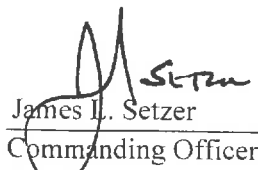
The following criteria were used to make this determination:

- ☒ Subject has admitted to being a gang member.
- ☐ Subject has been arrested for offenses consistent with gang activity.
- ☐ Subject has been identified as a gang member by a reliable informant/source.
- ☒ Subject has been seen associating with documented gang members.
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- ☒ Subject has been seen frequenting gang areas.
- ☒ Subject has been seen wearing gang dress.
- ☐ Subject is known to have gang tattoos.

Should you have any questions regarding this correspondence or have inquiries regarding referral programs, please call Officer/Detective Melvin Campos, Serial No. 34963, Pacific Area G.I.T. Area, at phone number 310-482-6402.

Respectfully,

MICHEL R. MOORE
Chief of Police


James L. Setzer, Captain
Commanding Officer
Pacific Area

AN EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER
www.LAPDonline.org
www.joinLAPD.com

12.16.16 (08/18)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Sean Garcia-Leys; SBN 313558 1910 W. Sunset Blvd., Suite 800 Los Angeles, CA 90026		FOR COURT USE ONLY
TELEPHONE NO.: (213) 404-0130 FAX NO. (Optional): E-MAIL ADDRESS (Optional): SGarciaLeys@UrbanPeaceInstitute.org ATTORNEY FOR (Name): Daniel Contreras		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Courthouse		
PETITIONER/PLAINTIFF: Daniel Contreras RESPONDENT/DEFENDANT: City of Los Angeles		
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL		
		CASE NUMBER: 19STCP03797

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and **not a party to this action**. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
1910 Sunset Blvd., Suite 800
Los Angeles, CA 90026
3. On *(date)*: September 6, 2019 I mailed from *(city and state)*: Los Angeles, CA
the following **documents** *(specify)*:
Notice of Case Assignment; Civil Case Cover Sheet; Civil Case Cover Sheet Addendum; Petition for
Review of Denial of Request to Remove Name From Gang Database; Proof of Service
- ☐ The documents are listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)*
(form POS-030(D)).
4. I served the documents by enclosing them in an envelope and *(check one)*:
 - a. ☒ **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. ☐ **placing** the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
 - a. **Name** of person served:
 - b. **Address** of person served:

☒ The name and address of each person to whom I mailed the documents is listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 6, 2019

Sean Garcia-Leys

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)

SHORT TITLE: Contreras v. City of Los Angeles

CASE NUMBER:
19STCP03797

ATTACHMENT TO PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL (PERSONS SERVED)

(This Attachment is for use with form POS-030)

NAME AND ADDRESS OF EACH PERSON SERVED BY MAIL:

Name of Person Served

Address (number, street, city, and zip code)

Clerk of the City of Los Angeles	200 N. Spring Street; City Hall - Room 360 Los Angeles, CA 90012
Los Angeles Police Department	P.O. Box 30158 Los Angeles, CA 90030